IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JAIPUR BENCH, JAIPUR

D.B. Civil Special Appeal [Writ] No.813/06

Sanjay Bhatia **Versus** State of Raj. & Ors.

Date of Judgment : 18/09/2006

Hon'ble The Chief Justice Shri S.N. Jha
Hon'ble Shri Justice Ajay Rastogi

Shri C.P. Sharma for Shri Man Singh Gupta for appellant

BY THE COURT [PER HON'BLE THE CHIEF JUSTICE] [ORAL]:

This special appeal is directed against the order of learned Single Judge dated 24.03.2006 in S.B. Civil Writ Petition No.811/2006 dismissing the writ petition of the appellant.

The dispute relates to appointment on compassionate ground. On the death of his mother in harness on 31.12.1988, the appellant was appointed on compassionate ground on 19.06.1999. However, soon after on 07.12.1999 appointment was cancelled. The appellant challenged the order in Writ Petition No.577/2000. By order dated 19.08.2002 a learned Single Judge directed his reinstatement but also gave liberty to the Director, Secondary Education to pass a fresh order keeping in view the guidelines in the case of Sanjay Bhatia by the Division Bench. The Director thereafter considered the matter and after giving personal hearing to the appellant rejected his claim by a reasoned order

on 26.07.2003. Challenging the order, the appellant again came to this court in the instant writ petition i.e. S.B. Civil Writ Petition No.811/2006.

The learned Single Judge noted that father of the appellant too was in government service and alive. Disbelieving appellant's case that he was dependant on his mother during her life time, the learned Single Judge dismissed the writ petition.

Compassionate appointment, as is well known by now, is a means of financial help to the members of bereaved family so that members of family are able to tide over the crisis caused by sudden and premature demise of the bread earner. Such appointment is not to be made as a matter of course unless family cannot survive on its own without such appointment. It is to be kept in mind that compassionate appointment is an exception to the general rule of equality in public employment under Article 16 of the Constitution. The Scheme has nevertheless been approved by Courts as a token of recognition of the past services rendered by the employee concerned. Being in the nature of exception to general rule, the provisions relating to compassionate appointment have to be strictly construed.

Adverting to the instant case it is not the case of the appellant that his parents were separate. The

case of appellant is that he was solely dependent on his mother and in support of contention he has filed a self-serving affidavit affirmed by himself. Except that affidavit there is no evidence to suggest that the appellant was solely dependant on his mother. The mother and father of the appellant constituted one family. In absence of any material to the contrary it is difficult to accept the ipsi dixit of the appellant that he was solely dependant on his mother. In the circumstances, the cancellation of the appointment by order dated 7.12.1999 or rejection of his claim by order dated 26.07.2003 does not warrant any interference.

In the result, we find no merit in the appeal which is accordingly, dismissed.

[AJAY RASTOGI],J. [S.N. JHA],CJ.

FRBOHRA,JR.P.A.